

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID H. JACOB,

Petitioner,

vs.

KERRIE WITTY, Facility Head; and U.S.
VETERANS ADMIN. HOSPITAL,

Respondents.

8:22CV135

MEMORANDUM AND ORDER

This matter is before the Court on Respondents' Motion to Continue Case, [Filing No. 24](#); Petitioner's Response to Respondents' Motion for Qualified Protective Order, [Filing No. 25](#); and Respondents' Reply to Petitioner's Response, [Filing No. 26](#).

On December 12, 2022, the Court granted Respondents' Motion for Protective Order, [Filing No. 21](#), and entered a Qualified Protective Order asking the Respondents to produce all medical records pertaining to Petitioner's father's mental health evaluations, medications, and surgical procedures since 2000 while Petitioner's father was a patient with the United States Department of Veterans Affairs (VA) subject to the requirements set forth in the Qualified Protective Order.¹ [Filing No. 22](#). On December 20, 2022, Respondents filed a motion to continue this matter for sixty days in order to coordinate the filing of a Stipulation of Dismissal because Respondents had produced the requested medical records to Petitioner. [Filing No. 24](#).

On December 22, 2022, Petitioner filed a Response to Respondents' Motion for Qualified Protective Order asking that the Qualified Protective Order be modified to

¹ The Honorable Richard G. Kopf entered the Qualified Protective Order. Thereafter on December 15, 2022, this case was transferred to the undersigned due to Judge Kopf's impending retirement to inactive senior status. [Filing No. 23](#), Text Order.

require the VA to provide a copy of the requested medical records to opposing counsel, Richard J. Arendt, in “the Illinois Court case, Jacob, et al. vs. Bieniek, et al., case number 2018 CH 1406 in the 19th Judicial Circuit Court in Waukegan, Illinois.” [Filing No. 25 at 1](#). Respondents filed a reply on December 28, 2022, in which they agreed to send a copy of the compact disc of privileged medical records together with a copy of the Qualified Protective Order to Attorney Arendt “[i]n recognition of the logistical challenges presented by Petitioner’s incarceration and his compliance with the Qualified Protective Order.” [Filing No. 26](#).; see also [Filing No. 27](#) (certificate of service of medical records on Attorney Arendt). Respondents further stated their belief that modification of the Qualified Protective Order is not necessary “[b]ecause the Qualified Protective Order included disclosure of the medical records in connection with the Illinois State Court action.” [Filing No. 26](#).

In light of the foregoing, the Court finds that modification of the Qualified Protective Order is not necessary as Respondents have produced the requested medical records to Petitioner and Attorney Arendt. The Court will also grant Respondents’ Motion for Continuance for good cause shown.

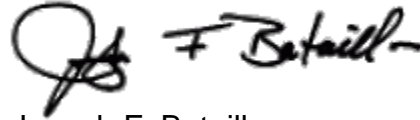
IT IS THEREFORE ORDERED that:

1. Respondents’ Motion for Continuance, [Filing No. 24](#), is granted. Respondents shall have until February 21, 2023 to either file a response to Petitioner’s petition or a Stipulation of Dismissal.

2. The Clerk of Court is directed to set a pro se case management deadline using the following text: **February 21, 2023**: check for response to petition or Stipulation of Dismissal.

Dated this 6th day of January, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "JF Bataillon". The signature is stylized with a large, circular initial "J" and a long, horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge